

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1850

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE O'TOOLE.

Read 1<sup>st</sup> time February 7, 2002, and 1000 copies ordered printed.

Read 2<sup>nd</sup> time February 11, 2002, and referred to the Committee on Miscellaneous Bills & Resolutions, February 21, 2002.

Reported from the Committee on Miscellaneous Bills & Resolutions, March 18, 2002, with recommendation that the bill Do Pass.

Taken up for Perfection April 8, 2002. Bill ordered Perfected and printed.

TED WEDEL, Chief Clerk

4065L.01P

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### AN ACT

To repeal section 57.280, RSMo, and to enact in lieu thereof one new section relating to sheriff's charges.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 57.280, RSMo, is repealed and one new section enacted in lieu  
2 thereof, to be known as section 57.280, to read as follows:

57.280. 1. Sheriffs shall receive a charge for service of any summons, writ or other order  
2 of court, in connection with any civil case, and making on the same either a return indicating  
3 service, a non est return or a nulla bona return, the sum of twenty dollars for each item to be  
4 served, except that a sheriff shall receive a charge for service of any subpoena, and making a  
5 return on the same, the sum of ten dollars; however, no such charge shall be collected in any  
6 proceeding when court costs are to be paid by the state, county or municipality. In addition to  
7 such charge, the sheriff shall be entitled to receive for each mile actually traveled in serving any  
8 summons, writ, subpoena or other order of court, the rate prescribed by the Internal Revenue  
9 Service for all allowable expenses for motor vehicle use expressed as an amount per mile,  
10 provided that such mileage shall not be charged for more than one subpoena or summons or  
11 other writ served in the same cause on the same trip. All of such charges shall be received by  
12 the sheriff who is requested to perform the service. Except as otherwise provided by law, all  
13 charges made pursuant to this section shall be collected by the court clerk as court costs and are

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 payable prior to the time the service is rendered; provided that if the amount of such charge  
15 cannot be readily determined, then the sheriff shall receive a deposit based upon the likely  
16 amount of such charge, and the balance of such charge shall be payable immediately upon  
17 ascertainment of the proper amount of said charge. A sheriff may refuse to perform any service  
18 in any action or proceeding, other than when court costs are waived as provided by law, until the  
19 charge provided by this section is paid. Failure to receive the charge shall not affect the validity  
20 of the service.

21         2. The sheriff shall receive for receiving and paying moneys on execution or other  
22 process, where lands or goods have been levied and advertised and sold, five percent on five  
23 hundred dollars and four percent on all sums above five hundred dollars, and half of these sums,  
24 when the money is paid to the sheriff without a levy, or where the lands or goods levied on shall  
25 not be sold and the money is paid to the sheriff or person entitled thereto, [his] **such person's**  
26 agent or attorney. The party at whose application any writ, execution, subpoena or other process  
27 has issued from the court shall pay the sheriff's costs for the removal, transportation, storage,  
28 safekeeping and support of any property to be seized pursuant to legal process before such  
29 seizure. The sheriff shall be allowed for each mile, going and returning from the courthouse of  
30 the county in which [he] **the sheriff** resides to the place where the court is held, the rate  
31 prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use  
32 expressed as an amount per mile. The provisions of this subsection shall not apply to  
33 garnishment proceeds.

34         3. The sheriff upon the receipt of the charge herein provided for shall pay into the  
35 treasury of the county any and all charges received pursuant to [the provisions of] this section;  
36 however, in any county, any funds, [not to exceed fifty thousand dollars in any calendar year,]  
37 other than as a result of regular budget allocations or land sale proceeds, coming into the  
38 possession of the sheriff's office, such as from the sale of recovered evidence, shall be held in  
39 a fund established by the county treasurer, which may be expended at the discretion of the sheriff  
40 for the furtherance of the sheriff's set duties. [Any such funds in excess of fifty thousand dollars,  
41 other than regular budget allocations or land sale proceeds, shall be placed to the credit of the  
42 general revenue fund of the county.] Moneys in the fund shall be used only for the procurement  
43 of services and equipment to support the operation of the sheriff's office. Moneys in the fund  
44 established pursuant to this subsection shall not lapse to the county general revenue fund at the  
45 end of any county budget or fiscal year.